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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/574,653

04/04/2006

Richard Kulak

60469254OTS282

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64779 7590 03/30/2007
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EXAMINER

KRUER, STEFAN

ART UNIT

PAPER NUMBER

3654

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/30/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/574,653	Applicant(s) KULAK ET AL.	
	Examiner Stefan Kruer	Art Unit 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 5 - 10, 12 - 14 and 16 - 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 5 - 10, 12 - 14 and 16 - 17 is/are rejected.
- 7) ☒ Claim(s) 1, 3, 6 - 10 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 1, 3, 6 – 10 and 12 are objected to because of the following:

The term “configured to” is objected, in that an element that is “configured to” perform a function is not a positive limitation and only requires the ability to so perform, in re Hutchinson 69 USPQ 138.

Appropriate corrections are required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites the limitation “the” in “the vibration level”. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5 – 9, 10, 12 – 14 and 16 - 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujita (5,289,902, US Patent of JP Application No. 3-282876, Patent JP-05116869).

Re: Claims 1, 3 and 5 – 9, Fujita discloses a roller guide device (Fig. 2) for use in an elevator system, comprising:

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- A base (8),
- At least one roller (10) supported by the base such that the roller is rotatable about a roller axis (11) and moveable to the base in at least one direction perpendicular to the roller axis,
- A damper (20) that has a selectively variable stiffness and is configured to dampen the relative movement of the roller, the damper comprising a fluid (22) having a selectively variable viscosity for varying the stiffness of the damper; and
- A controller (25, Fig. 3) that automatically increases the stiffness if the damper when an associated elevator car (5) is stationary at a landing and to decrease the stiffness of the damper when the associated car is moving (Col. 7, Lines 3 – 13 and Col. 8, Lines 53 – 60).
- An elevator car motion indicator (24) in communication with the controller and wherein the controller changes the damper stiffness responsive to a detected level of motion (Col. 4, Line 9).
- Wherein the damper fluid comprises a magneto-rheological fluid (Col. 3).
- A field generator (23) that generates a field that changes a viscosity of the magneto-rheological fluid (Col. 4, line 1).
- The controller (25) controls the field generator;
- An indicator (24) that provides an indication of an elevator car vibration to the controller and wherein the controller controls the damper stiffness based upon an amount of vibration.

Re: Claims 10 and 12 – 13, Fujita discloses:

- An elevator system (Fig. 1),
- a car frame (5a),
- At least one roller (10) supported for vertical movement with the frame, and rotatable movement as well as lateral movement relative to the frame,

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- A selectively variable stiffness damper (20) that dampens the relative movement of the roller, the damper comprising a fluid (22) having a selectively variable viscosity for varying the stiffness of the damper; and
- A controller (25, Fig. 3) that automatically increases the stiffness if the damper when an associated elevator car (5) is stationary at a landing and to decrease the stiffness of the damper when the associated car is moving.
- An vibration detector (24) that provides an indication of a level of car frame elevator car vibration to the controller and wherein the controller controls the damper stiffness based upon the level of car frame vibration.
- Wherein the damper fluid comprises a magneto-rheological fluid (Col. 3).

Regarding Claims 14 and 16 - 17, the components comprising the device of Claims 10 and 12 - 13 would necessarily have to interact in order for the device to function. It would have been obvious to perform all the method steps of claims 10 and 12 - 13 when using the device of Fujita, in a usual and expected fashion, in as much as the method claims recite no limiting steps beyond forming each of the components.

With further respect to Claim 17, Fujita discloses a plurality of rollers and associated dampers (Fig. 1).

Response to Arguments

Applicant's arguments filed 2 February 2007 have been fully considered but they are not persuasive.

The rejections of the previous office action were in response to the claim language. Applicant's arguments are based on the amended claim language applied to the prior art of reference; consequently, this office action comprises a detailed response to Applicant's arguments.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Johnson et al (6,318,522) and Stewart et al (5,816,587) are cited for references of an apparatus and method comprising rotary and linear dampers using a magnetorheological fluid in combination with a field generator for suspension systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Kruer whose telephone number is 571.272.5913. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571.272.6911. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866.217.9197 (toll-free).

SHK, 27 March 2007


GENE O. CRAWFORD
SUPERVISORY PATENT EXAMINER